

**Altech Node**

**Subscriber Terms and Conditions**

## 1. ACCEPTANCE OF TERMS AND CONDITIONS

- 1.1. **THESE TERMS AND CONDITIONS, AS AMENDED FROM TIME TO TIME, GOVERN YOUR USE OF THE NODE AND RELATED SERVICES. TO AGREE TO THESE TERMS AND CONDITIONS, CLICK "AGREE". IF YOU DO NOT AGREE TO THESE TERMS AND CONDITIONS, DO NOT CLICK "AGREE" AND DO NOT USE THE NODE OR THE RELATED SERVICES.**
- 1.2. **AT ANY TIME AND FOR ANY REASON WHATSOEVER, WE MAY CHANGE THESE TERMS AND CONDITIONS; THEREFORE YOU MUST LOOK AT THE TERMS AND CONDITIONS REGULARLY TO CHECK FOR SUCH CHANGES. WE WILL PROVIDE NOTICE OF ANY MATERIAL CHANGES IN THE TERMS AND CONDITIONS BY POSTING NOTICE TO THE WEBSITE. YOUR CONTINUED USE OF THE SERVICES AFTER OUR NOTICE OF A CHANGE IN THE TERMS AND CONDITIONS MEANS THAT YOU AGREE TO THE AMENDED TERMS AND CONDITIONS. IF YOU DO NOT AGREE TO THE AMENDED TERMS YOU MUST STOP USING THE SERVICES.**
- 1.3. **YOU MAY BE ENTITLED TO CERTAIN RIGHTS IN TERMS OF APPLICABLE LAWS. FOR THE AVOIDANCE OF ANY DOUBT, NO TERM OR PROVISION CONTAINED IN THESE TERMS AND CONDITIONS IS TO BE INTERPRETED OR CONSTRUED SO AS TO DIRECTLY OR INDIRECTLY:**
  - 1.3.1. **EXCLUDE, LIMIT, WAIVE OR DEPRIVE YOU OF ANY UNALTERABLE RIGHTS WHICH YOU MAY HAVE IN TERMS OF ANY APPLICABLE LAWS;**
  - 1.3.2. **AVOID ANY UNALTERABLE OBLIGATION OR DUTY WHICH WE MAY HAVE IN TERMS OF ANY APPLICABLE LAWS;**
  - 1.3.3. **SET ASIDE OR OVERRIDE THE EFFECT OF ANY UNALTERABLE APPLICABLE PROVISION OF ANY APPLICABLE LAWS; OR**
  - 1.3.4. **AUTHORISE US TO DO ANYTHING THAT IS UNLAWFUL IN TERMS OF ANY APPLICABLE LAWS OR FAIL TO DO ANYTHING THAT IS REQUIRED IN TERMS OF ANY APPLICABLE LAWS, TO THE EXTENT THAT IT IS IMPERMISSIBLE TO DO SO.**
- 1.4. **A COPY OF THESE TERMS AND CONDITIONS WILL BE EMAILED TO YOU ONCE THE FULL REGISTRATION PROCESS HAS BEEN COMPLETED.**

## 2. DEFINITIONS

- 2.1. The following words, which are used in the Agreement, have the meanings set out below:
  - 2.1.1. **"Acceptance Date"** means the date on which you submitted your Application, be that in writing or by way of electronic medium, for example by clicking "I agree" on the Website, the Node, or a mobile phone, or by means of telephonic acceptance;
  - 2.1.2. **"Account"** means the account created by the Subscriber to pay us for the Services by means of a Linked Card;
  - 2.1.3. **"Account Password"** means a personal identification password created by the Subscriber to be used for enhanced security and required when concluding certain transactions on the Node;
  - 2.1.4. **"ADSL"** means an asymmetrical digital subscriber line, which means a family of technologies that provide Internet access by transmitting digital data over the wires of a local telephone network;
  - 2.1.5. **"Agreement"** means the agreement concluded between you and us in respect of the Subscription, Transactions or Services contemplated in the Application which agreement will be exclusively governed by these Terms and Conditions and the specific terms and conditions applicable to the relevant Transactions, Subscription or Services, as applicable;
  - 2.1.6. **"Application"** means your request for access to the Services in terms of these Terms and Conditions, which request may have been made by you in the following ways: by accepting these Terms and Conditions during registration on your Node, telephonically and / or by any communication means authorised by us from time to time;
  - 2.1.7. **"Application Record"** means the electronic record kept by us and updated from time to time by yourself and containing your personal information; your preferred method of correspondence; your approved opt-in and opt-out options regarding marketing; third party information sharing and Account management notifications; your Node details; your Transaction and Subscription records and payments; and your selection of Services and VAS;
  - 2.1.8. **"Billing Period"** means the monthly period beginning on the date corresponding with the Acceptance Date and ending on the day before the same date in the next month;
  - 2.1.9. **"Business Day"** means Monday to Friday, but excludes Saturdays and Sundays and any day which is an official public holiday, as described in the Public Holiday Act 36 of 1994, in the Republic of South Africa;
  - 2.1.10. **"Call Centre"** means the ALTECH NODE call centre which can be contacted on 0860 006 633 for any assistance required in the operation of the Node, the product, service, or the management of your account;
  - 2.1.11. **"Consumer Protection Act"** means the Consumer Protection Act 68 of 2008, as amended from time to time;

- 2.1.12. **"Content"** means any and all Subscription and/or Plus video or other content provided to you by means of the Node;
- 2.1.13. **"Content Information Collection"** means the information that we may collect from you from time to time, relating to the Content viewed by you, including the time when the Content was viewed and such other information relating to your use of Content on the Node as we may require, which information may include your personal information;
- 2.1.14. **"Content Rights"** means the copyright and other intellectual property rights to the audio-visual, audio and / or data material provided to you by us;
- 2.1.15. **"Content Title"** means any single Content item available on Subscription or Plus, as the case may be;
- 2.1.16. **"ECT Act"** means the Electronic Communications and Transactions Act 25 of 2002;
- 2.1.17. **"Entertain Page"** means the user interface screen that is displayed on the Node containing the detailed description of an elected Content Title, which screen may also indicate the rental price for such elected Plus Content Title, if applicable;
- 2.1.18. **"Films and Publications Board"** means the Films and Publications Board, a statutory body that is established in terms of the Films and Publications Act, 1996 and whose mandate is the regulation of the creation, possession and distribution of films, games and publications in South Africa;
- 2.1.19. **"General Amendment"** means an amendment of these Terms and Conditions by us from time to time on notice to you of the change/s in writing or by posting the change/s on the Website or the Node;
- 2.1.20. **"Intellectual Property Rights"** means any intellectual property rights and other Content Rights belonging to the Altron group of companies, or any affiliated companies, or any Content providers, including any copyright in any work in terms of the Copyright Act 98 of 1978 and includes, without limitation, the right to reproduce that work, the rights in respect of a trade mark conferred by the Trade Marks Act 194 of 1993 and any other Trade Mark, the rights in respect of a design conferred by the Designs Act 195 of 1993, and the rights in respect of a patent conferred by the Patents Act 57 of 1978, including any applications for the rights in terms of these Acts and including, without limitation, any names, licenses, know how, trade secrets, inventions, utility models, service marks, design rights (whether registered or unregistered), database rights, proprietary information rights, data associated with rights granted or applied for under these Acts and any and all other similar proprietary rights and applications for such rights as may exist anywhere in the world;
- 2.1.21. **"Linked Card"** means the debit, credit or cheque card linked to your Account as one of your Payment Mechanisms;
- 2.1.22. **"Manufacturer"** means the manufacturer of the Node or any component of the Node;
- 2.1.23. **"Monthly Due Date"** means the particular day of each calendar month selected by you for payment of the Subscription Fees utilising the Payment Mechanism;
- 2.1.24. **"Monthly Threshold"** means the monthly monetary threshold set by you on the Node for rental of Plus Content and/or the payment for such other Services on the Node without having to utilise your Account Password for authorisation;
- 2.1.25. **"Network Coverage Area"** means the geographical area where the satellite-delivery system and data network are provided and within which the Services can be accessed and used by you, as determined by us at the time;
- 2.1.26. **"Network Operator"** means a company that owns an electronic communications network, and which makes such network and the electronic communications services conveyed over such network available to other industry players for commercial purposes (e.g., Vodacom, MTN and Telkom);
- 2.1.27. **"Node"** means the set top box device purchased and / or used by the Subscriber and which is capable of receiving and decrypting Content and which controls and/or provides ancillary services;
- 2.1.28. **"Node HDD"** means the hard disk drive of the Node;
- 2.1.29. **"Party /Parties"** means you and ALTECH NODE;
- 2.1.30. **"Payment Mechanism"** means the payment mechanism selected by you on the Node as a means to pay Subscription Fees, any Plus Content Fees, if any, or any other fees due to us, either by means of the Linked Card or such other payment mechanism available on the Node from time to time;
- 2.1.31. **"Payment System Providers"** means payment systems owned and operated by third parties;
- 2.1.32. **"Plus Fee(s)"** means the once-off payment(s) to ALTECH NODE by the Subscriber, as indicated on the Node from time to time, as consideration for a Transaction;
- 2.1.33. **"POPI"** means the Protection of Personal Information Act, No. 4 of 2013 as may be amended from time to time;
- 2.1.34. **"Pro-rata Billing"** means a charge levied on the Subscriber where the Acceptance Date is before the first Monthly Due Date for the days between the Acceptance Date and the first Monthly Due Date on a proportionate basis;
- 2.1.35. **"Satellite Dish"** means a satellite-receive-only antenna aligned to the Intel Sat 20 satellite;
- 2.1.36. **"ALTECH NODE / we / us / our"** means Altech Node, a division of Altron TMT Proprietary Limited with registered number 1984/003805/07 and its affiliates, agents and successors in title;
- 2.1.37. **"Self Service Portal"** means a customer self-service portal accessed on the Website that provides a convenient way for subscribers to receive answers to questions, complete transactions, submit

support issues or query Account information and/or address any other Node related queries from time to time.

- 2.1.38. **"Services"** means the Subscription services and any products or ancillary services, including Subscription, Plus and VAS, provided to you by ALTECH NODE by means of the Node;
- 2.1.39. **"Subscriber / you / your / yourself"** means you or the subscriber of the Services where such person is a user of the Node;
- 2.1.40. **"Subscription"** means the purchase of monthly access to a selection of pre-selected Subscription Content Titles, which may include movies, series, children programmes and / or documentaries which will be available for the duration of the Billing Period;
- 2.1.41. **"Subscription Fee(s)"** means the required payment to us by the Subscriber, as indicated on the Node, as consideration for the Subscription;
- 2.1.42. **"Subscription Video On Demand / Subscription"** means the packaging of Content on an on-demand basis that permits you, upon payment of the Subscription Fees, to view such programs at a time chosen by yourself entirely at your discretion, without reference to a schedule of viewing times pre-established by a service provider, such as in television-channel viewing and to stop and start, pause, fast-forward and rewind (or any of these functionalities) the Subscription Content Title during the Subscription period as determined by us, but excludes Plus;
- 2.1.43. **"Terms and Conditions"** means the terms and conditions contained in this document, and amended from time to time by General Amendment, such Terms and Conditions being freely available to you on the Website or on request to us at any time;
- 2.1.44. **"Trade Marks"** means any trade-marks, logos, brand names, trade names domain names or other names or marks belonging to the Altron group of companies, or any affiliated companies, or any Content providers, whether registered or not;
- 2.1.45. **"Transaction" or "Transaction Fee"** means the rental fee for access to a Content Title which access will be available for 48 (forty eight) hours after payment and may be watched once or multiple times during the 48 (forty eight) hour viewing window;
- 2.1.46. **"Transactional Video On Demand / Plus"** means an individual Content Title which is delivered on an on-demand basis that permits you, upon payment of a Transaction Fee, to view the item at a time chosen by you entirely at your discretion without reference to a schedule of viewing times pre-established by the service provider and to stop and start, pause, fast-forward and rewind (or any of these functionalities) the Content Title during a period of no more than 48 (forty eight) hours after the rental fees for such Content Title are paid, but excludes Subscription;
- 2.1.47. **"Uncontrollable Event"** means (including without limitation) any fire, flood, earthquake, elements of nature or acts of God, riots, civil disorders, government controls / restrictions / prohibitions / failures, rebellions or revolutions in any country, power outages and / or load shedding, or any other cause beyond our reasonable control, including the termination or suspension of a service or product provided by a Network Operator, any supplier, agent or sub-contractor, industrial disputes, strikes or work stoppages of any kind or any other similar or dissimilar cause, or any other event or occurrence that is outside of our control that may result in a delay or a failure to provide any of the Services;
- 2.1.48. **"VAS"** means value-added Services including products, which may be provided by us or a third party, in addition to the Plus and/or Subscription from time to time in our sole and absolute discretion;
- 2.1.49. **"VAT"** means Value-Added Tax as provided for in the Value-Added Tax Act 89 of 1991;
- 2.1.50. **"Website"** means [www.node.co.za](http://www.node.co.za); and
- 2.1.51. **"Your Physical Address"** means the physical address recorded in your Application, as amended from time to time on notification by you to us.
- 2.2. If figures are referred to in numerals and in words and if there is any conflict between the two, the words shall prevail.

### 3. SUBSCRIPTION, CANCELLATION AND FEES

- 3.1. **All payments made by you in respect of Plus Content, Subscription Content and any other Services are made on a prepaid basis to access the Services in future and no payments made by you to us will be refunded for any reason whatsoever.**
- 3.2. **Subscription**
  - 3.2.1. You agree to pre-authorise payment to be made monthly, on the Monthly Due Date, by means of the Payment Mechanism.
  - 3.2.2. You may change the Monthly Due Date at any time, but such change will only be applied from the next Monthly Due Date.
  - 3.2.3. Pro-rata Billing is payable immediately on the Acceptance Date before the activation of the Subscription.
  - 3.2.4. You may cancel your Subscription at any time, but such cancellation will only be executed on the last day of the current Billing Period. Upon cancellation of your Subscription your access to Subscription Content will be cancelled on the last day of the current Billing Period.
  - 3.2.5. In order to have continued access to Subscription and Plus Content you must make, and we must receive, payment of your Subscription Fees in advance on, or before, the Monthly Due Date.

- 3.2.6. If we do not receive payment of your Subscription Fees as contemplated in clause 3.2.5 above, we may, without prejudice to any of our other rights and remedies:
  - 3.2.6.1. suspend your access to Subscription and Plus Content, until such time as the amount has been paid in full; and / or
  - 3.2.6.2. terminate the Agreement with immediate effect.
- 3.2.7. If your access to Subscription and Plus Content is suspended, we will not reactivate your access to Subscription and Plus Content until we have received payment of your required Subscription Fees.
- 3.3. **Plus**
  - 3.3.1. Subject to clause 4, you will only be able to consume Plus Content Titles if:
    - 3.3.1.1. you have accepted the terms and conditions contained in the Agreement;
    - 3.3.1.2. your Account has been activated; and
    - 3.3.1.3. your Subscription Fees are fully prepaid for the current Billing Period; and
    - 3.3.1.4. we have successfully deducted the rental fee for your elected Plus Content Title through your elected Payment Mechanism.
  - 3.3.2. You may elect to view Plus Content by paying the required Plus Fee applicable to the relevant Content Title by means of the Payment Mechanism through the Node.
  - 3.3.3. You may choose to set a Monthly Threshold, which will be applicable to all Transactions by accessing your payment profile on the Node and Monthly Threshold settings and by using the Account Password. All Transactions up to the Monthly Threshold will then be treated as authorised and your authorisation would then only be required for each Transaction exceeding the Monthly Threshold. Should you choose not to set a Monthly Threshold or to set a Monthly Threshold of zero, your authorisation will be required for each Transaction.
  - 3.3.4. We may from time to time amend any fees payable in respect of access to the Services, including the Subscription Fees, which amendment will be reflected on your monthly statement and/or under your Account settings on the Node, and Plus Fees will be reflected on the Entertain Page as soon as practicable prior to implementing such change, so that you may choose to terminate the Agreement or not utilise certain Services if you wish to do so.
  - 3.3.5. We may use Payment System Providers to facilitate the collection of fees and other amounts payable by you in respect of the Services. All Payment System Providers are compliant with required security measures to ensure that your payment information is protected and that no debit or credit card information, other than the type of card used, is kept on our systems. The Payment System Providers are not our employees, subcontractors, agents, intermediaries or representatives and they are not controlled by us.
  - 3.3.6. You agree to provide us with all information, documentation and/or signatures that we may need in order to impose the payment arrangements found in the Agreement.
- 3.4. **VAS**
  - 3.4.1. We shall endeavour to make available the terms and conditions applicable to VAS on the Website or on the Node from time to time. VAS (including products), supplied by a third party shall be governed by the terms and conditions of that supplier in respect of that VAS (including products) and we make no representations or warranties, whether express or implied, and assume no liability or responsibility for the proper performance of the VAS (including products) to which the terms and conditions apply.

#### 4. **INSTALLATION, MAINTENANCE, AUTHORISATION, AUTHENTICATION, VALIDATION AND OPERATION OF NODE**

- 4.1. Only authorised persons may open the Node for repairs and maintenance.
- 4.2. **You acknowledge and agree that you are liable for any installation fees in order to enable the use of the Services.**
- 4.3. Content updates and decryption keys for the Services are delivered to the Node HDD in encrypted form, among other methods, by means of satellite reception and an Internet connection and you must:
  - 4.3.1. ensure that the Node is:
    - 4.3.1.1. connected to a Satellite Dish;
    - 4.3.1.2. connected to power;
    - 4.3.1.3. left in stand-by mode when not being used;
    - 4.3.1.4. connected to the Internet by means of either a 3G SIM card inserted in the Node with sufficient data, or WIFI, or an Ethernet cable linked to a ADSL line and that the Internet access is fully functional; and
    - 4.3.1.5. create an Account Password in order to enable you to gain access to and/or use the Services.
- 4.4. The Node will authenticate the Subscriber by verifying the Subscription and payment status and retrieve a license key to decrypt any Content stored on the Node HDD and we will make the Services available to you, and, subject to your compliance with the provisions of clause 4.3 above, you will be able to access the Services, on the Activation Date.
- 4.5. **You agree and undertake to us that:**
  - 4.5.1. you will use your Account Password for your own personal use only;

- 4.5.2. you will not disclose your Account Password to any other person for any reason whatsoever and that you will maintain the confidentiality of the Account Password;
- 4.5.3. in the event that your Account Password is compromised, you will immediately notify us and change your Account Password on the Node by correctly answering a security question;
- 4.5.4. you, as the holder of the Account Password, acknowledge that you are solely responsible for all payments in respect of the Services charged to your Account, irrespective of whether the Services have been utilized, or are being utilized, by you or not;
- 4.5.5. you agree to cause all persons who use any of the Services under your Account, or with your authorization, to comply with the Agreement. All acts or omissions of all persons who use the Services under your Account, or with your authorization, will be treated for all purposes as your acts or omissions; and
- 4.5.6. you will not attempt to circumvent our user authentication processes or engage in attempts to access our network unless you are expressly authorised to do so.

## 5. WARRANTIES AND DEFECTS

- 5.1. We provide you with a 12 (twelve) month' Manufacturer's warranty in relation to the Node from the date of purchase from one of our recommended retailers, in terms of which you are entitled to have the Node repaired or replaced provided:
  - 5.1.1. that you provide proof of purchase of the Node from one of our recommended retailers;
  - 5.1.2. the Node has no physical damage;
  - 5.1.3. the Node has no electrical damage due to power surges or lightning strikes;
  - 5.1.4. the seals on the Node are still intact and have not been tampered with at all, in our sole discretion; and
  - 5.1.5. only Node-supported VAS peripherals and/or services have been used.
- 5.2. You agree, subject to any applicable laws, that the Node will not be exchanged and the Manufacturer's warranty will immediately expire in the event of any physical damage to the Node, or if the Node has been opened (its seals are broken)
- 5.3. We draw your attention to the implied warranty of quality in terms of section 56 of the Consumer Protection Act, in terms of which, if the Node fails to meet the requirements and standards contemplated in section 55 of the Consumer Protection Act, you may be entitled to return the Node to the Distributor, without penalty and at the Distributor's risk and expense, and to direct the Distributor, at your election, to-
  - 5.3.1. repair or replace the Node that has failed, is unsafe or defective;
  - 5.3.2. refund to you the price paid by you for the Node.
- 5.4. The implied warranty of quality and your right to return the Node under the Consumer Protection Act referred to in clause 5.3 above are in addition to the Manufacturer's warranty referred to in clause 5.1 above.
- 5.5. If the Node needs to be replaced under the Manufacturer's warranty, the peripherals to the Node will not be supplied with the replacement Node.
- 5.6. **Subject to any applicable laws and the terms of the Manufacturer's warranty:**
  - 5.6.1. we have no obligation:
    - 5.6.1.1. to ensure that the Node is, or remains, functional or error-free and enables you to access the Services; or
    - 5.6.1.2. to maintain any component or aspect of the Node;
  - 5.6.2. we make no warranty or representation, whether expressly or implicitly:
    - 5.6.2.1. about any component of the Node, or that you will be able to access or continue to access the Services using the Node, or that such access will be continuous and/or uninterrupted;
    - 5.6.2.2. as to the quality of reception by you of the Services, or any aspect of the Services, in the Network Coverage Area to the extent that this depends upon factors beyond our control; or
    - 5.6.2.3. that the software used to provide the Services, including our system software and software applications, is error-free, flawless or without fault or defect; and
  - 5.6.3. we are not liable to any person for the Content and/or the use of materials constituting the Services, whether provided by us or a third party, and you agree that the Services may contain images and/or content that may be regarded as unsuitable or offensive by some viewers.

## 6. STOLEN OR NEW/REPLACEMENT NODE

- 6.1. Should the Node, or any component of the Node, be stolen, you are obliged to report this as soon as possible to:
  - 6.1.1. the South African Police Services ("SAPS") and obtain a case number; and
  - 6.1.2. the Call Centre.
- 6.2. We will deactivate the active Node and Services with immediate effect as soon as possible after the receipt of the SAPS case number and the name of the station where you made the report and cancel the deduction of your Subscription Fees in terms of the Payment Mechanism.
- 6.3. **Should your Node be replaced with a new Node, you should immediately contact the Call Centre and update your Account details on the Node.**

## **7. PARENTAL CONTROL AND CONTENT RATINGS**

- 7.1. You agree to take reasonable preventative steps to:
  - 7.1.1. prevent children from viewing any Content that has been classified with an age restriction by us, the Content providers, or by any relevant government authority, or self-regulatory body, from time to time; and
  - 7.1.2. inform all adult viewers that the Content may contain restricted material and steps or that restrictive viewing measures must be taken to prevent such materials from being viewed by children.
- 7.2. We will on a continued basis keep you informed of all age restrictions and other conditions which may be imposed by us, or Content providers, or by any relevant government authority, or self-regulatory body, from time to time.
- 7.3. You can control the Content viewed by activating the parental-control option and selecting a parental-control password on the Node.

## **8. MULTIPLE NODES**

- 8.1. You may purchase more than 1 (one) Node and multiple Nodes may be linked to your Account during the registration process on each Node.
- 8.2. You may set up a Payment Mechanism for each Node linked to your Account on that Node.

## **9. OUR OBLIGATIONS: PROVISION OF THE SERVICES AND INFORMATION**

- 9.1. In consideration for your payment of your Subscription Fees and / or Plus Fees, and subject to you complying with the Agreement, we will provide you with access to the Services in accordance with the Agreement.
- 9.2. Subject to your compliance with the Agreement, we will continue to provide you with access to the Services until your access is suspended or the Agreement is terminated in terms thereof.
- 9.3. We will send a billing statement to your email address on a monthly basis setting out the Subscription Fees and / or Plus Fees and any other fees charged to your Account during the previous Billing Period.
- 9.4. We will use reasonable endeavours to make the Services available to our Subscribers, and to maintain the availability of such Services for use by our Subscribers. However, we provide the Services "as is" and "as available" and do not warrant or guarantee that the Services will at all times be free of errors or interruptions, be always available, fit for any purpose, not infringe any third party rights, be secure and reliable, or will conform to your delivery timeline requirements, subject to the provisions of any applicable laws.
- 9.5. We will use our best endeavours to notify you in advance of any maintenance and repairs which may result in the unavailability of the Services, but cannot always guarantee this.
- 9.6. You acknowledge and accept that the Services or any part of the Services may be supplied by a third party and may not be owned by us and maybe subject to additional restrictions imposed by the third party owner of that Service. Notwithstanding any other provision in this Agreement, we offer no warranties (whether express or implied) or support of any kind with respect to any Services rendered or supplied by any third party, except that we will pass through to you if an to the extent permitted, any warranties expressly provided by such third parties to us for such Service or partial Service rendered.
- 9.7. For the avoidance of doubt, you agree that we have no obligation to ensure that consumer-downloadable applications perform error free on a television set.
- 9.8. By downloading any consumer-downloadable applications you accept the terms and conditions of those applications.
- 9.9. You accept and agree to comply with the terms and conditions of any and all licence terms applicable to any pre-loaded software applications including but not limited to the Android Apache Licence, Version 2.0 terms and conditions available at <http://www.apache.org/licenses/LICENSE-2.0.html>.
- 9.10. We are, in terms of the ECT Act and POPI, required to make our contact details and certain other information available to our Subscribers who enter into electronic transactions with us and /or from whom we collect personal information. This information is available under "ECT Act and POPI Information" under Legal Notices on our Website.

## **10. INTELLECTUAL PROPERTY RIGHTS AND PROHIBITION ON REVERSE ENGINEERING**

- 10.1. You understand that any and all Intellectual Property Rights belong to us, or licensed to us, or our affiliates, or our Content providers, and that by agreeing to this Terms and Conditions, you acquire no right or interest in such rights.
- 10.2. You understand and acknowledge that any software supplied by a third party may not be owned by us and maybe subject to additional restrictions imposed by the owner of that software. Any such additional restrictions will be set out in the Agreement. Notwithstanding any other provision in this Agreement, we offer no warranties (whether express or implied) or support of any kind with respect to any third party software, except that we will pass through to you if an to the extent permitted, any warranties expressly provided by such third parties to us for such third party software.

- 10.3. You will not for any reason copy, reproduce, license, use, disclose, reverse engineer, adapt, amend, disclose or distribute the Intellectual Property Rights, unless so authorised in writing by a person in a managerial position with us.
- 10.4. You may only access the Services that you have authority to access and you may not under any circumstances open the Node and/or the Node HDD in order to attempt to use the Node, or the Node NDD, unlawfully, i.e. hacking, reverse engineering, copying, or replacing, any component of the Node is strictly prohibited.
- 10.5. You undertake not to do anything, or allow anything to be done, whether negligently or intentionally, that may infringe on the Intellectual Property Rights or the rights or interests of those of our suppliers or licensors, or that may constitute any form of reverse engineering of the Node. You acknowledge and agree that we will have the right to hold you responsible for any damages that we (or our affiliates or our Content Providers) may incur if you breach this clause.

## 11. YOUR RIGHTS: ALLOWED USE AND LICENCE

- 11.1. You may:
  - 11.1.1. access and use the Node, Services and / or any consumer-downloadable applications downloaded onto the Node in South Africa and in a lawful manner, for your private domestic use or educational purposes, in a single residential unit and in accordance with the Agreement;
  - 11.1.2. transport the Node to any other private single residential unit within South Africa and have access to the Content stored on the Node HDD, provided that the Node has fully functional Internet access;
  - 11.1.3. use the Node to play or watch content from an external hard drive on a television set, provided the item uses the file formats supported by the Node;
  - 11.1.4. not access or use the Node and/or Services outside South Africa or for any commercial or other non-private purpose without our prior written consent; and
  - 11.1.5. not use the Node in any manner or for any purpose other than as set out in the Agreement.
- 11.2. You agree not to negligently or intentionally permit or allow any other person use the Node in the manner set out in clause 11.1.4 and/or 11.1.5.
- 11.3. Without limiting the restrictions in clause 11 you may not attempt to or –
  - 11.3.1. access any component of the Services other than those components which you are authorised to have access;
  - 11.3.2. use the Services, or any component of the Services, for any commercial purpose;
  - 11.3.3. exhibit or provide the Services to the public, whether or not admission fees are charged;
  - 11.3.4. charge any person a fee to access the Services or any component of the Services;
  - 11.3.5. hire-out, sell, redistribute, relay, retransmit or rebroadcast any of the Content, including any copy of the Content that you may have made;
  - 11.3.6. hack, reverse engineer or otherwise compromise the security of the conditional access system, operating software or encryption software used in the Node; or
- 11.4. permit, facilitate or condone any other person conducting any of the prohibited activities in this clause, whether using your Node or otherwise. If you sell or otherwise transfer the Node, then you must advise us in writing, within 7 (seven) business days thereafter, of the identity and contact details of the transferee.
- 11.5. You undertake:
  - 11.5.1. to comply with the User Manual and any instructions and warnings included with the Node when you use and install the Node;
  - 11.5.2. not to alter the Node in any way; and
  - 11.5.3. to keep the Node connected, or at least in standby mode when not in use, to the main power supply and to the reception equipment, to enable the functionality of the software, updating of the software in the Node and in order to ensure that your Service is not adversely affected.

## 12. OUR RIGHTS

- 12.1. The nature, composition and content of the Services are determined by us and may be changed by us from time to time, subject to any applicable laws, and subject to your right to terminate the Agreement in accordance with these Terms and Conditions.
- 12.2. The various systems necessary for, or associated with, the provision of the Services (including technical services, signal distribution and satellite capacity, the software operating system, software applications, Subscriber-management services and business systems) are determined by us and are subject to on-going innovation and change and may be amended by us from time to time, subject to any applicable laws and subject to your right to terminate the Agreement in accordance with these Terms and Conditions.
- 12.3. We reserve the right to:
  - 12.3.1. implement price increases for the Services offered from time to time and will advise you of the price increase by means of the preferred communication method selected as soon as it is possible to do so should you wish to cancel the Agreement;
  - 12.3.2. appoint agents or representatives to manage, support and/or maintain requests by Subscribers and to share your personal information with such persons for this purpose;
  - 12.3.3. use any communication methods when communicating with you;



- 12.3.4. download new operating software to the Node to upgrade the existing software and firmware on the Node;
- 12.3.5. change any number, code, password, user identity or name allocated to you;
- 12.3.6. suspend the Services in the event that software updates are necessary; and
- 12.3.7. determine the terms and conditions governing the addition of VAS to our product suite (and these terms and conditions will be published on our Website in due course).

### 13. APPLICABLE POLICIES

#### 13.1. Information, Communications, Data Protection and Opt-Out Policy

- 13.1.1. You must provide us with enough personal information to provide and activate the Services requested by you. **You warrant that all your personal information, including Your Physical Address, provided to us is accurate.**
- 13.1.2. You agree to inform us about any change to the personal information provided to us in the Application or thereafter within 7 (seven) days of the occurrence of such change, by affecting such change on the Node, by means of the Self Service Portal, or by contacting the Call Centre. Some examples of changes that we must be made aware of are any changes to your Linked Card details or Your Physical Address.
- 13.1.3. We will not process any of your personal information in any manner, or for any purpose, other than as set out in the Agreement and we will not breach or contravene any applicable laws relating to privacy or data protection;
- 13.1.4. **You authorise us, subject to any applicable laws, to:**
  - 13.1.4.1. undertake Content Information Collection and to obtain, capture, store, analyse and use your viewing habits on the Node in order to effect payment to our Content providers and for marketing purposes. This information can be used to guide the Content providers as to viewing patterns and influence their buying decisions accordingly and we may advise you of new and / or similar Content Titles or Services; and
  - 13.1.4.2. authorise third parties, including our agents and intermediaries, to process any of the information contained in your Application Record, on our behalf.
- 13.1.5. **Subject to any applicable laws and the provisions of clause 13.1.6, we may communicate with you, among other methods, by means of e-mail, text or other messages to your cellular phone, computer, laptop, mobile device or to your Node for display on your television screen, among other things, to:**
  - 13.1.5.1. market or promote our Services and/or those of our suppliers, affiliates and/or clients;
  - 13.1.5.2. inform you about the Services and operational systems, and changes to these;
  - 13.1.5.3. provide you with information which we believe may be of particular interest or relevance to you; and
  - 13.1.5.4. notify you of a General Amendment.
- 13.1.6. You may refuse to accept, require us to discontinue (telephonically, electronically or in writing), opt out, or pre-emptively block in terms of any applicable laws, any approach or communication from us if that approach or communication is primarily for the purpose of direct marketing ("**Direct Marketing Communications**").
- 13.1.7. If you have opted out in accordance with clause 13.1.6, we will not send you any further Direct Marketing Communications.
- 13.1.8. You irrevocably authorise us to communicate with you by means of any mode of communication nominated by you in the Application in respect of any issue regarding the status of your Account, payments made or owing to us and the Monthly Due Date.
- 13.1.9. You may authorise any person to communicate with us on your behalf in relation to the Agreement, provided that such person complies with our standard security check. You agree to be bound by all requests and undertakings made by third parties on your behalf in terms of this clause.
- 13.1.10. It is your responsibility not to disclose the personal information relevant to our standard security check and/or your Account Password to third parties whom you have not authorised to represent you.

#### 13.2. Internet, Security and Fraud and Unlawful Activity Prevention Policy

- 13.2.1. You agree to adhere to generally accepted practice and your Network Operator's policy in respect of Internet usage, and not to use your browser available through the Node for any unlawful or unauthorised purpose.
- 13.2.2. You acknowledge that the provision of the Services may include and / or rely on a technological security framework, networks and various other systems ("**Security Framework**") designed to protect the Services against unauthorised use and the unauthorised access to your personal information, which Security Framework will be automatically implemented, maintained and modified from time to time.

- 13.2.3. You agree to such implementation, maintenance and modification of the Security Framework, which may include the disconnection or discontinuation of any features of the Node which facilitate unauthorised use of the Services.
- 13.2.4. Our failure to implement the whole or part of the Security Framework will not constitute a waiver of any of our rights resulting from the unauthorised use of the Services.
- 13.2.5. We will be entitled to take whatever action we may deem necessary and reasonable to preserve the security and reliability of the Security Framework and / or the Services.
- 13.2.6. You may not utilize any Services in any manner which may compromise the security of the Security Framework, or any other network connected to our network, or tamper with our Services or such a network in any manner whatsoever.
- 13.2.7. You may not use the Node for any unauthorised or fraudulent or criminal purpose, including the accessing of offshore proxies, to obtain or download unauthorised offshore content or to utilise such other services to disguise your actual location.

#### **14. ACCEPTANCE OF LIABILITIES– DATA USAGE**

Although we have endeavoured to minimise the data requirements to support the Services, you acknowledge and agree that you are fully liable for any and all data requirements/usage, including the costs of roaming, if applicable.

#### **15. EXEMPTION OF LIABILITIES**

- 15.1. Subject to any applicable laws, you acknowledge and agree that we are not liable to you or any third party for any harm, loss, damage or expense (including legal costs), injury or death caused (directly, indirectly or consequentially) by:
  - 15.1.1. your use of the Node and the Services;
  - 15.1.2. the interruption, suspension or cancellation of the Services for any Uncontrollable Event, including any failure by a Network Operator;
  - 15.1.3. any components, including modems, or software downloaded, not recommended or approved by us for use with the Node;
  - 15.1.4. Transactions entered into by any unauthorised persons;
  - 15.1.5. non-delivery or late delivery of the Content if a satellite connection is not available;
  - 15.1.6. your activities on the Internet browser;
  - 15.1.7. non-communication, including in respect of an intended General Amendment, or failure to deliver the Services, should your chosen communication method have changed without you informing us or not be available;
  - 15.1.8. unintended or unauthorised use of the Node;
  - 15.1.9. an unauthorised attempt to open and/or dismantle the Node;
  - 15.1.10. a lack of connectivity due to the choice of Network Operator, ADSL or other service provider;
  - 15.1.11. power surges, lightning damage, power outages and the like;
  - 15.1.12. loss of the Services if the power connection to the Node is interrupted;
  - 15.1.13. any circumstances leading to the loss of the signal, whether due to negligence (other than gross negligence on our part), any transmitter failure, failure of any operative satellite, whether due to the satellite changing its orbit or to it being damaged, or in any way affected, so as to discontinue, or disrupt, the signal or to any other disruption to, or interference with, the signal;
  - 15.1.14. the contents of and/or the use of the material contained in the signal received by the Node;
  - 15.1.15. any defect in such material, including any error in fact, or instruction, or advice, in respect of the material;
  - 15.1.16. any Content unlawfully accessed; and / or
  - 15.1.17. any defect or malfunction of the Node due to the incorrect installation of such Node or a component of such Node and you agree that in the event of any such defect or failure, you will nevertheless remain responsible to fulfil your obligations in terms of the Agreement during the period that the Node did not function properly.

#### **16. ASSISTANCE AND YOUR COMPLAINTS**

- 16.1. Should you need assistance in respect of the Services or Your Account, or you wish to report a fault or mistake in respect of the Services or Your Account, you may contact the Call Centre or lodge a query on the Self Service Portal.
- 16.2. Should you wish to lodge a complaint in respect of the Content, you may contact the Film and Publication Board (see [www.fpb.org.za](http://www.fpb.org.za)).

#### **17. BREACH, INDEMNITY AND TERMINATION**

- 17.1. You agree to indemnify us, our employees, agents, and any other person for whom you may be liable in law ("Indemnified Parties") against any direct or indirect loss, damage or expense (including legal costs), injury or death which may be demanded from or sustained by 1 (one) or more of the Indemnified Parties by reason of any breach by you of any term of the Agreement.

- 17.2. The software in the Node, at the time of accepting the Terms and Conditions, for use in South Africa, is not known to infringe any third party intellectual rights. You indemnify us against any claim arising from a breach of warranty or any infringement due to any third party software in the Node. Without limiting the indemnity stated in this clause, to the extent that we obtain an indemnity from the suppliers of such third party software in relation to any infringement of intellectual property rights, and to the extent that we are entitled to pass on such indemnity, you shall be entitled to the benefit of such indemnity, as if it was granted by us, in favour of you.
- 17.3. If we breach any term of the Agreement, you will have the right to provide us with a letter calling on us to rectify the breach within 20 (twenty) Business Days. If we do not rectify the breach within the 20 (twenty) Business Days' notice period, you may cancel the Agreement.
- 17.4. If you are sequestrated, liquidated or placed under business rescue, we will have the right to immediately cancel the Agreement. You will be reasonably notified of such cancellation.
- 17.5. The cancellation of this Agreement will not affect-
- 17.5.1. our rights or remedies, or yours, for the period prior to the cancellation; or
  - 17.5.2. those rights and obligations which in terms of the Agreement, either expressly or by implication, will survive beyond cancellation.
- 17.6. The breach provisions in these Terms and Conditions are without prejudice to any other remedies to which a party may be entitled at law, including the right to claim damages.
- 17.7. In addition to our rights under this clause, if you materially breach the Agreement we may, without prejudice to any other remedy that we may have, immediately and without notice to you, suspend your access to the Services.
- 17.8. If we have suspended your access to the Service and you –
- 17.8.1. remedy the breach;
  - 17.8.2. comply with the Agreement; and
  - 17.8.3. make payment to us of the fees payable under the Agreement, we will reactivate your access to the Services.

## 18. GENERAL TERMS AND CONDITIONS

- 18.1. We have the right to cede, assign, encumber, delegate and/or transfer any or all of the rights or obligations that we may have in terms of the Agreement without having to give you notice hereof. You may not cede, assign, delegate, encumber or transfer any of your rights or obligations in terms of the Agreement unless you have our written consent to do so. Such consent will not be unreasonably withheld.
- 18.2. When any person is acting on our behalf and he/she has the necessary authority to do so, our authority does not need to be proved.
- 18.3. **We will not be liable to you in the event that we are not able to perform any or all of our obligations in terms of the Agreement as a result of any Uncontrollable Event.**
- 18.4. Any leniency that we may grant you in terms of the Agreement will not prevent us from exercising any of the rights that we may have in terms of the Agreement in the future, including our right to require your strict compliance with the Agreement. Such leniency will not affect the validity of any terms or conditions of the Agreement.
- 18.5. **Neither you nor we are bound by any express or implied representation, warranty (except any warranty implied by law), undertaking, promise or the like not recorded in the Agreement.**
- 18.6. The parties choose the addresses below as their chosen place to receive legal notices;
- 18.6.1. **ALTECH NODE:** Woodmead North Office Park, 54 Maxwell Drive, Woodmead, 2191, South Africa;
  - 18.6.2. **Subscriber:** Your Physical Address.
- 18.7. All legal notices given in terms of the Agreement must be in writing.
- 18.8. We may be sending you important business communications and notifications relating to the Services or your Account and these notifications may be contained on or with your monthly invoice.
- 18.9. We have the right to change the terms of the Agreement by General Amendment.

- 18.10. The Agreement constitutes the entire agreement between the Parties and supersedes all previous discussions, correspondence, negotiations, arrangements, understandings and/or agreements between them relating to its subject matter and no Party will have to comply with any term or condition that does not form part of the Agreement.
- 18.11. If one or more of the provisions of the Agreement are found to be unenforceable or unreasonable it will be removed from the Agreement or be read down to the maximum extent possible under any applicable laws, but all the remaining terms and conditions will continue to apply.